

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



December 7, 1995

ALL-COUNTY INFO. NOTICE NO. I-57-95

TO: ALL COUNTY WELFARE DIRECTORS

REASON FOR THIS TRANSMITTAL

- ☒ State Law Change
- ☐ Federal Law or Regulation Change
- ☐ Court Order or Settlement Agreement
- ☐ Clarification Requested by One or More Counties
- ☐ Initiated by CDSS

SUBJECT: AB 1836 REPORTS ON ABUSE: INVESTIGATIVE REPORTS

REFERENCE: Welfare and Institutions Code Section 15630


This All-County Information Notice identifies the policies and procedures to be followed for the implementation of AB 1836, (Figueroa). This bill amends Section 15630 of the Welfare and Institutions Code relating to the reporting of abuse. Existing law requires persons who are employed in specified professions and specified public officials to report observed or suspected incidents of physical abuse against elders or dependent adults to defined law enforcement or regulatory agencies. These reports must be made by telephone as soon as possible and in writing within two working days.

This bill provides that when a county adult protective services agency is required to report incidents of abuse to a law enforcement agency, the law enforcement agency must, with specified limitations, upon request, furnish a copy of its investigative report concerning the reported matter to that county adult protective services agency.

By imposing additional duties upon local agencies, the bill creates a state-mandated local program. The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the cost of mandates that do not exceed \$1,000,000 statewide, and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill provides that no reimbursement shall be made from the State Mandates Claims Fund for costs mandated by the state pursuant to this act, but recognizes that local agencies and school districts may pursue any available remedies to seek reimbursement for these costs.

Please contact Robert A. Barton, Chief, Adult Services Management Branch at (916) 229-4583 if you have any questions regarding this matter.


CAROL R. WIDEMON
Deputy Director
Adult Services Division

Attachment

more than six months in the county jail or by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment.

SEC. 3. No reimbursement shall be made from the State Mandates Claims Fund pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code for costs mandated by the state pursuant to this act. It is recognized, however, that a local agency or school district may pursue any remedies to obtain reimbursement available to it under Part 7 (commencing with Section 17500) and any other provisions of law.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

Assembly Bill No. 1836

CHAPTER 813

An act to amend Section 15630 of the Welfare and Institutions Code, relating to abuse.

[Approved by Governor October 12, 1995. Filed with Secretary of State October 13, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1836, Figueroa. Reports on abuse: investigative reports.

Existing law requires persons who are employed in specified professions and specified public officials to report observed or suspected incidents of physical abuse against elders or dependent adults to defined law enforcement or regulatory agencies. These reports must be made by telephone as soon as possible and in writing within 2 working days.

This bill would provide that when a county adult protective services agency is required to report incidents of abuse to a law enforcement agency, the law enforcement agency must, with specified limitations, upon request, furnish a copy of its investigative report concerning the reported matter to that county adult protective services agency. It would likewise provide that when a law enforcement agency is required to report incidents of abuse to a county adult protective services agency, the county adult protective services agency must, with specified limitations, upon request, furnish a copy of its investigative report concerning the reported matter to that law enforcement agency.

By imposing additional duties upon local agencies, the bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that no reimbursement shall be made from the State Mandates Claims Fund for costs mandated by the state pursuant to this act, but would recognize that local agencies and school districts may pursue any available remedies to seek reimbursement for these costs.

The people of the State of California do enact as follows:

SECTION 1. Section 15630 of the Welfare and Institutions Code is amended to read:

15630. (a) Any elder or dependent adult care custodian, health practitioner, or employee of a county adult protective services agency or a local law enforcement agency is a mandated reporter.

(b) Any mandated reporter, who, in his or her professional capacity, or within the scope of his or her employment, has observed an incident that reasonably appears to be physical abuse, observed a physical injury where the nature of the injury, its location on the body, or the repetition of the injury clearly indicates that physical abuse has occurred or is told by an elder or dependent adult that he or she has experienced behavior constituting physical abuse shall report the known or suspected instance of abuse by telephone immediately or as soon as possible, and by written report sent within two working days, as follows:

(1) If the abuse has occurred in a long-term care facility, except a state mental health hospital or a state developmental center, the report shall be made to the local ombudsman or the local law enforcement agency.

(2) If the suspected or alleged abuse occurred in a state mental health hospital or a state developmental center, the report shall be made to designated investigators of the State Department of Mental Health or the State Department of Developmental Services or to the local law enforcement agency.

(3) If the abuse has occurred any place other than one described in paragraph (1), the report shall be made to the adult protective services agency or the local law enforcement agency.

(c) (1) Any mandated reporter who has knowledge of, or reasonably suspects that, types of elder or dependent adult abuse for which reports are not mandated have been inflicted upon an elder dependent adult or that his or her emotional well-being is endangered in any other way, may report the known or suspected instance of abuse.

(2) If the suspected or alleged abuse occurred in a long-term care facility other than a state mental health hospital or a state developmental center, the report may be made to the long-term care ombudsman program.

(3) If the suspected or alleged abuse occurred in a state mental health hospital or a state developmental center, the report may be made to the designated investigator of the State Department of Mental Health or the State Department of Developmental Services, or to a local law enforcement agency or to the local ombudsman.

(4) If the suspected or alleged abuse occurred anywhere else, the report may be made to the county adult protective services agency.

(5) If the conduct involves criminal activity not covered in subdivision (b), it may be immediately reported to the appropriate law enforcement agency.

(d) When two or more mandated reporters are present and jointly have knowledge or reasonably suspect that types of abuse of an elder or a dependent adult for which a report is or is not mandated have occurred, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement, and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.

(e) A telephone report of a known or suspected instance of elder or dependent adult abuse shall include the name of the person making the report, the name and age of the elder or dependent adult, the present location of the elder or dependent adult, the names and addresses of family members or any other person responsible for the elder or dependent adult's care, if known, the nature and extent of the elder or dependent adult's condition, the date of the incident, and any other information, including information that led that person to suspect elder or dependent adult abuse requested by the agency receiving the report.

(f) The reporting duties under this section are individual, and no supervisor or administrator shall impede or inhibit the reporting duties, and no person making the report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting, ensure confidentiality, and apprise supervisors and administrators of reports may be established, provided they are not inconsistent with this chapter.

(g) (1) Whenever this section requires a county adult protective services agency to report to a law enforcement agency, the law enforcement agency shall, immediately upon request, provide a copy of its investigative report concerning the reported matter to that county adult protective services agency.

(2) Whenever this section requires a law enforcement agency to report to a county adult protective services agency, the county adult protective services agency shall, immediately upon request, provide a copy of its investigative report concerning the reported matter to that law enforcement agency.

(3) The requirement to disclose investigative reports pursuant to this subdivision shall not include the disclosure of social services records or case files that are confidential, nor shall this subdivision be construed to allow disclosure of any reports or records if the disclosure would be prohibited by any other provision of state or federal law.

(h) Failure to report physical abuse of an elder or dependent adult, in violation of this section, is a misdemeanor, punishable by not